

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner  
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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Petition of CenterPoint  
Energy for Approval to Continue the No  
Surprise Bill and Revise the No Surprise Bill  
Tariff to Allow for the Inclusion of Planned  
Rate Increases in the Bill

ISSUE DATE: September 6, 2005

DOCKET NO. G-008/M-05-602

ORDER APPROVING TARIFF FOR NO  
SURPRISE BILL PROGRAM, AS REVISED

**PROCEDURAL HISTORY**

On September 26, 2001, the Commission issued an Order in Docket No. G-008/M-01-974 approving CenterPoint Energy's (CPE's or the Company's) "No Surprise Bill" (NSB) pilot program.<sup>1</sup>

On October 9, 2003, the Commission issued an Order authorizing CPE to expand the NSB program to 70,000 customers, and modified the program to permit the NSB to reflect the cost of anticipated increases in franchise fees and sales tax, subject to refund if the increases proved to be less than anticipated.<sup>2</sup>

On July 29, 2004, the Commission issued an Order modifying the NSB program to permit the NSB to reflect a rate increase approved during the pendency of a rate case, as long as the Commission has approved interim rates prior to the start of the NSB program year.<sup>3</sup>

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<sup>1</sup> See *In the Matter of a Petition of Reliant Energy Minnegasco for Approval of a Miscellaneous Rate Change and Miscellaneous Tariff to Offer Customers a Fixed Bill Option*, Docket No. G-008/M-01-974, ORDER GRANTING PETITION WITH MODIFICATIONS AND REPORTING REQUIREMENTS (September 26, 2001). Reliant Energy Minnegasco subsequently became CenterPoint Energy.

<sup>2</sup> *In the Matter of the Petition of CenterPoint Energy Minnegasco to Modify the No Surprise Bill Pilot Program to allow more Participants and to Modify the Tariff to Allow Increases for Interim Rates and New Franchise Fees*, Docket No. G-008/M-03-795, ORDER APPROVING INCREASED PARTICIPATION AND MODIFYING TARIFF (October 9, 2003).

<sup>3</sup> *In the Matter of a Request by CenterPoint Energy Minnegasco for Approval to Revise the No Surprise Bill Tariff*, Docket No. G-008/M-04-649, ORDER APPROVING THE PETITION WITH REVISED MARKETING DOCUMENTS (July 29, 2004).

On April 13, 2005, CenterPoint Energy filed a petition stating that the pilot program would end at the end of this program year and requested that the Commission authorize the No Surprise Bill (NSB) indefinitely at the current level and continue associated variances.

On July 11, 2005, the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG) filed comments.

On July 22, 2005, the Minnesota Department of Commerce (the Department) filed comments.

On August 1, 2005, CenterPoint filed reply comments explaining why it opposes the RUD-OAG's recommendation for opt-in on renewal and stating that its communications materials already provide most of the information suggested by the RUD-OAG. In response to the Department, CPE agreed to reduce the program fee to four percent, provided information on the financial risk of the program and revised its proposal to limit the request to include interim rates to only the program year that will start in December 2005 and its rate case which it will be filing approximately November 2, 2005.

On August 18, 2005, this matter came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **I. CenterPoint Energy's Proposal**

CPE noted that the No Surprise Bill (NSB) pilot program would end at the end of this program year and requested that the Commission authorize the NSB program indefinitely at the current level, 70,000 customers.

The Company also requested continuation of the variances to the Purchased Gas Adjustment (PGA) rules granted by the Commission's September 26, 2001 Order in Docket No. G-008/M-01-974. In addition, CenterPoint requested that the NSB tariff be revised to provide for the inclusion of interim rates in the NSB amounts quoted and charged to customers in the event the Company files or plans to file a rate case during an NSB program year.

CenterPoint stated that the program fee would continue to be five percent with four percent paid to WeatherWise and one percent to the Salvation Army HeatShare program.

### **II. The RUD-OAG's Comments**

The RUD-OAG stated that it does not oppose continuation of the NSB program but recommended that the program drop the automatic renewal feature and switch to customers opting in for renewal. The OAG also stated it does not oppose the tariff revision to allow prospective interim rates, but recommended that the Commission require the Company to clearly communicate that the quote includes anticipated interim rates and an explanation of the true-up process.

### **III. The Department's Comments**

The Department recommended that the Commission approve the request to continue the NSB program and the necessary PGA variances. The Department recommended that CenterPoint reduce the NSB program fee to four percent and that the Commission require CenterPoint to provide information to its customers related to HeatShare donations. The Department withheld its comments regarding the inclusion of prospective interim rates in the monthly charges pending further information from CenterPoint.

### **IV. CenterPoint Energy's Reply Comments**

In Reply Comments, the CPE explained why it opposes the RUD-OAG's recommendation for opt-in on renewal and stated that its communications materials already provide most of the information suggested by the RUD-OAG.

In response to the Department, CPE 1) agreed to reduce the program fee to four percent, 2) provided information on the financial risk of the program, and 3) revised its proposal to limit the request to include interim rates to only the program year that will start in December 2005 and its rate case which it will be filing approximately November 2, 2005.

### **V. Commission Analysis and Action**

#### **A. Background**

The general purposes of the No Surprise Bill option are to give customers who value certainty over precision a tool for stabilizing their energy costs, to provide a more predictable revenue stream for the Company, and to explore new pricing and delivery options in an economic environment the Company sees as evolving toward greater consumer choice.

The NSB fixed monthly charge for the 12-month NSB program year is computed as follows. Each month's forecasted consumption is multiplied by the applicable rate and added to the customer charge. The program fee, carrying charges, any applicable franchise fee and sales tax are also added. The total of all these charges is summed and the result is divided by twelve to determine the fixed monthly payment.

The Company's NSB tariff was first approved as a four-year pilot program in an Order issued September 26, 2001 in Docket No. G-008/M-01-974.<sup>4</sup> The pilot program is due to expire at the end of the current program year, November 30, 2005.

#### **B. Summary of Commission Action**

Having reviewed the Company's proposal and revisions thereto, along with the comments and recommendations of the Department and the RUD-OAG, the Commission finds that it is

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<sup>4</sup> *In the Matter of a Petition of Reliant Energy Minnegasco for Approval of a Miscellaneous Rate Change and Miscellaneous Tariff to Offer Customers a Fixed Bill Option*, Docket No. G-008/M-01-974, ORDER GRANTING PETITION WITH MODIFICATIONS AND REPORTING REQUIREMENTS (September 26, 2001)

appropriate to allow the Company to continue the No Surprise Bill (NSB) program as a part of its tariff with a cap of 70,000 participants. The Commission will also grant variances to Minn. Rules, Parts 7825.2700, subpts. 3, 6, and 7 and Minn. Rules 7825.2910, subp. 4 as necessary for the program to be effective.

Issues warranting separate discussion are addressed below.

### **C. Renewal Method**

CPE proposed that the Commission continue to approve an opt-out method which automatically renews a customer in the NSB program unless they affirmatively opt out of the program. The RUD-OAG, concerned that some customers may have been unwillingly re-enrolled because of the automatic re-enrollment method, recommended that the Commission require the Company to use a positive opt-in method.

While a positive opt-in method may be generally desirable, in this case the Commission will allow CPE to continue with the automatic renewal/opt-out method. This will be the fifth year of a program that has operated with automatic renewal and no customer complaints about this method of renewal for the NSB program have come to the Commission's attention. Since a high percentage of participants have been automatically re-enrolled in previous years, it is likely that they have come to expect automatic re-enrollment. As a consequence, changing the method at this point may cause confusion or customer dissatisfaction at not being re-enrolled because they did not opt-in this year. In addition, the Company's communication near the end of the program year (October bill) appears clear enough so that customers will be aware that they are about to be automatically re-enrolled in the program for the coming year.

### **D. Proposed Involuntary Donation to HeatShare Withdrawn**

CPE initially proposed that NSB customers be charged a five percent program fee, with a portion of that fee (20 percent of the fee) donated to HeatShare, an energy assistance program administered by the Salvation Army. The Department objected, questioning the appropriateness of the Company's proposal to charge NSB participants a portion of the program fee for charity without informing the customers or allowing them an opportunity to opt-out of this donation.

In reply comments, the Company withdrew its proposal to direct one percent of the program fee to HeatShare and proposed to charge a program fee of four percent. The Commission finds that the four percent fee is appropriate and will approve it.

### **E. Including Prospective Interim Rates in Calculating NSB Charges**

In a previous Order in this matter, the Commission has approved the inclusion of interim rates that are approved by the beginning of the program year.<sup>5</sup>

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<sup>5</sup> On July 29, 2004, the Commission issued an Order modifying the NSB program to permit the NSB to reflect a rate increase approved during the pendency of a rate case, as long as the Commission has approved interim rates prior to the start of the NSB program year. See *In the Matter of a Request by CenterPoint Energy Minnegasco for Approval to Revise the No Surprise Bill Tariff*, Docket No. G-008/M-04-649, ORDER (July 29, 2004).

In its current filing, CPE requested permission to calculate its NSB charges for the coming program year using interim rates that will **not** have been approved by the beginning of the program year. In reply comments, the Company has clarified that its proposal no longer applies to any other future rate cases but only to the upcoming program year, which starts in December 2005. The Company also stated that interim rates for the general rate case will be filed approximately November 2, 2005. The Company filed a proposal for estimating the interim rate increase that it would include in its calculation of the NSB charge.

The Department is generally opposed to including interim rates in calculating the NSB charge except when those rates have been approved by the Commission prior to implementation. In this instance, however, the Department accepted the Company's proposal in the instant docket and recommended its approval with the understanding that it is a one time occurrence for only the 2005-2006 NSB program year and that interim rates for the case will be filed in November 2005. The Department stated that the methodology of determining the estimated interim rate increase is reasonable in this instance because 1) CenterPoint has just completed a rate case, which is the starting point for the estimate and 2) the proposed rate case is expected to have a limited number of issues.

The Department and CPE agreed upon language to be used in the Company's communication on this point.

On the basis of the parties' written and oral arguments, the Commission concludes that it would be reasonable to include estimated interim rates in calculating the NSB charge and will direct the Company to work with Commission Staff to develop the specific amount, which the Company expects to be approximately 1.3 percent.

#### **F. Marketing/Renewal Materials**

Order Paragraph 6 of the Commission's September 26, 2001 Order stated in part:

Minnegasco shall emphasize in all of its customer education and marketing materials, in addition to the ten items listed on page 13 of its filing, the following information:

- a) The purpose of the pilot program is to provide bill certainty not bill savings;
- b) Enrollment in the pilot program carries the risk of paying more (or less) for gas; and
- c) The Fixed Bill will be calculated assuming normal weather conditions will prevail;

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In comments filed July 11, 2005, the RUD-OAG suggested certain clarifications and disclosures to ensure informed decision-making by customers. The Commission agrees that CenterPoint should provide enough information for the customer to determine whether the price they are paying for certainty makes sense financially.

The Company has submitted for review materials it proposes to send to customers. The materials clearly state that the customer will pay a program fee and a carrying charge with the NSB and the amount paid could be more or less than under standard billing. One item, "Details and Terms of the No Surprise Bill — 2005-2006 Program Year," also shows the comparable gas prices and

weather information for the past several years. The Commission finds that the Company's materials adequately communicate the necessary information.

#### **G. Variances of Purchased Gas Adjustment Rules**

Finally, as the Commission did in its first Order regarding CPE's No Surprise Bill pilot project, the Commission will vary the applicable purchased gas adjustment (PGA) rules, Minn. Rules 7825.2700, subps. 3, 6, and 7, and Minn. Rules 7825.2910, subp. 4, to permit the program to offer a fixed monthly charge. Without these variances, the Company would be required to adjust all customers' bills, including those of program participants, to reflect fluctuations in the price of gas.<sup>6</sup>

The Commission's rules of practice and procedure permit it to vary any of its rules upon making the following findings:<sup>7</sup>

- (1) enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule;
- (2) granting the variance would not adversely affect the public interest;
- (3) granting the variance would not conflict with standards imposed by law.

The Commission will vary the rules as to program participants for the life of the program, making the following findings:

- (1) Enforcing the rules would impose an excessive burden upon the Company, the public, and potential program participants, by making it impossible for the Company to offer a fixed-rate program;
- (2) Varying the rules would not adversely affect the public interest and would in fact serve the public interest by permitting the Company to offer this innovative program;
- (3) Varying the rules would not conflict with any other standards imposed by law, since the Public Utilities Act permits, but does not require, the use of a purchased gas adjustment.<sup>8</sup>

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<sup>6</sup> *In the Matter of a Petition of Reliant Energy Minnegasco for Approval of a Miscellaneous Rate Change and Miscellaneous Tariff to Offer Customers a Fixed Bill Option*, Docket No. G-008/M-01-974, ORDER GRANTING PETITION WITH MODIFICATIONS AND REPORTING REQUIREMENTS (September 26, 2001) at pages 3-4 and 7.

<sup>7</sup> Minn. Rules 7829.3200, subp. 1.

<sup>8</sup> Minn. Stat. § 216B.16, subd. 7.

## **ORDER**

1. The Commission hereby authorizes CenterPoint Energy to continue the No Surprise Bill (NSB) program as a part of its tariff, with a cap of 70,000 participants.
2. The Commission grants CenterPoint Energy variances to Minn. Rules, Part 7825.2700, subpts. 3, 6, and 7 and Minn. Rules, Part 7825.2910, subp. 4 as necessary for the program to be effective. The variances shall continue in effect throughout the life of the program.
3. CenterPoint Energy is authorized to continue to use automatic renewal for the NSB program.
4. The Commission approves the Company's limited request for inclusion of interim rates from the November 2005 general rate case in the 2005-2006 NSB program. The Company shall work with Commission Staff to determine the amount.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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